

Message Text

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ACTION EB-08

INFO OCT-01 EUR-12 ISO-00 L-03 INT-05 AID-05 CIAE-00
COME-00 FRB-01 INR-07 NSAE-00 USIA-15 TRSE-00
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SCA-01 JUSE-00 /076 W

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FM AMEMBASSY PARIS

TO SECSTATE WASHDC 1429

INFO AMEMBASSY LONDON

UNCLAS SECTION 01 OF 02 PARIS 09980

E.O. 11652: N/A

TAGS: EMIN ENRG FR US

SUBJECT: RECIPROCITY PROVISIONS OF MINERAL LEASING
ACT OF 1920.

REFS: (A) STATE 070022; (B) STATE 313732 (1976)

1. SUMMARY: WE HAVE REVIEWED PROVISIONS OF FRENCH LAWS AND REGULATIONS WITH RESPECT TO FOREIGN PARTICIPATION IN EXPLOITATION OF FRENCH MINERAL DEPOSITS (INCLUDING CRUDE OIL AND NATURAL GAS). WE CONCLUDE THAT FRANCE STILL EXTENDS TO U.S. CITIZENS AND CORPORATIONS RECIPROCITY WHICH IS STIPULATED IN SECTION L OF U.S. MINERAL LEASING ACT OF 1920 (41 STAT. 437, 30 USC 181) AS CONDITION FOR PARTICIPATION OF CITIZENS OF OTHER COUNTRIES IN EXPLOITATION OF U.S. MINERAL DEPOSITS. HOWEVER, FRENCH LEGAL REQUIREMENTS REGARDING FOREIGN PARTICIPATION APPEAR TO DIFFERENTIATE SOMEWHAT BETWEEN THOSE ACTIVITIES RELATING TO CRUDE OIL AND NATURAL GAS AS OPPOSED TO OTHER MINERALS. FOLLOWING PARAGRAPHS REPORT HIGH POINTS AND DIFFERENCES WE HAVE NOTED IN THESE TWO SETS OF REQUIREMENTS. END SUMMARY.

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2. BASIC FRENCH DECREES AND SUPPORTING LAWS GOVERNING MINERALS ARE EMBODIED IN "DROIT DU SOUS-SOL ET DES MINES." FOREIGN PARTICIPATION IN MINERALS EXPLOITATION IS ALSO CONTROLLED BY FOREIGN DIRECT INVESTMENT REGULATIONS ADMINISTERED BY FINANCE MINISTRY. MINISTRY OF INDUSTRY ADVISES US THAT THERE HAVE BEEN NO RPT NO

CHANGES AFFECTING INVESTMENT AND FOREIGN PARTICIPATION ASPECTS OF THESE BASIC REGULATIONS SINCE LAST UP-DATED VERSION OF "DROIT" WAS PROMULGATED IN MARCH 1973. DROIT CONTAINS TWO SPECIFIC DECREES WHICH, ALONG WITH FINANCE MINISTRY REGULATIONS, ARE BELIEVED TO PROTECT RECIPROCITY PRIVILEGES REQUIRED BY OUR MINERAL LEASING ACT OF 1920. THESE TWO DECREES ARE: NUMBER 55-1349 OF OCTOBER 6, 1955, REGULATING HYDROCARBON CONCESSIONS, AND NUMBER 56-715 OF JULY 17, 1956, COVERING "MINING CONCESSIONS FOR SUBSTANCES OTHER THAN LIQUID OR GASEOUS HYDROCARBONS."

3. FOLLOWING ARE MAJOR STIPULATIONS OF FRENCH LAWS AND DECREES (PRINCIPALLY NUMBER 55-1349) RE FOREIGN PARTICIPATION IN EXPLOITATION OF LIQUID OR GASEOUS HYDROCARBON DEPOSITS:

(A) UNLESS OTHERWISE AUTHORIZED BY DECREE, COMPANIES HOLDING CONCESSIONS MUST BE INCORPORATED IN ACCORDANCE EITHER WITH FRENCH LAW OR LAW OF ANOTHER EC MEMBER. COMPANIES HAVING RIGHTS TO CONTINENTAL SHELF MUST EITHER BE ESTABLISHED OR HAVE A PERMANENT ADDRESS IN METROPOLITAN FRANCE.

(B) UNLESS OTHERWISE AUTHORIZED BY DECREE, SPECIFIC PROPORTION OF MANAGERIAL STAFF OF SUCH COMPANIES MUST BE OF FRENCH NATIONALITY (TWO-THIRDS OF BOARD OF DIRECTORS, INCLUDING CHAIRMAN AND MANAGING DIRECTOR; ALSO MANAGERS WITH SIGNING AUTHORITY

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COME-00 FRB-01 INR-07 NSAE-00 USIA-15 TRSE-00
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AND AUDITORS). THESE RESTRICTIONS ARE NOT APPLICABLE TO COMMERCIAL COMPANIES FORMED IN ACCORDANCE WITH LAWS OF EC MEMBER STATE, IF SUCH COMPANIES HAVE THEIR HEADQUARTERS AND MANAGEMENT WITHIN EC.

(C) WHILE THERE ARE NO GENERAL RESTRICTIONS ON FOREIGN CAPITAL INVESTMENT IN HYDROCARBON EXPLOITATION, SUCH INVESTMENTS ARE SUBJECT TO INDIVIDUAL SCRUTINY AND APPROVAL BY FINANCE MINISTRY. THEREAFTER, MINISTRY OF INDUSTRY OVERSEES INVESTMENT AND MUST--ALONG WITH FINANCE MINISTRY--APPROVE ANY CHANGE IN CAPITAL.

PARTICULARLY GIVEN LEEWAY PROVIDED BY POSSIBILITY OF DEROGATION THROUGH ISSUANCE OF ADDITIONAL DECREES (A AND B, ABOVE), WE SEE NOTHING IN THESE GOF PROVISIONS WHICH RUNS COUNTER TO RECIPROCITY EXPECTATIONS OF U.S. MINERALS LEASING ACT OF 1920 (N.B. INTERESTED WASHINGTON AGENCIES CAN FIND DETAILED DISCUSSION OF REGULATIONS APPLICABLE TO FOREIGN ENTITIES ENGAGING IN HYDROCARBONS EXPLOITATION IN 1973 OECD PUBLICATION "THE EXPLORATION FOR AN EXPLOITATION OF CRUDE OIL AND NATURAL GAS IN THE OECD INCLUDING THE CONTINENTAL UNCLASSIFIED

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SHELF.")

4. ALL OTHER FRENCH MINERALS ARE GOVERNED BY FOREIGN PARTICIPATION REGULATIONS ALMOST IDENTICAL TO THOSE FOR NATURAL GAS AND OIL, EXCEPT THAT FOR THESE NON-HYDROCARBONS THERE APPEAR TO BE NO RESTRICTIONS--EITHER IN DECREE NUMBER 56-715 OR ELSEWHERE ACCORDING TO MINISTRY OF INDUSTRY SOURCES--REGARDING PROPORTION OF COMPANIES' MANAGERIAL STAFF REQUIRED TO BE OF FRENCH NATIONALITY (SEE PARA 3 B ABOVE). AS WITH GAS AND OIL, HOWEVER, WE HAVE FOUND NO LEGAL OR REGULATORY PROVISIONS WHICH WOULD DENY TO U.S. CITIZENS OR CORPORATIONS OWNERSHIP OR LEASING RIGHTS TO FRENCH NON-HYDROCARBON DEPOSITS.

5. AS FAR AS WE KNOW, THERE ARE NO U.S. COMPANIES CURRENTLY ENGAGED IN MINING ACTIVITY IN METROPOLITAN FRANCE. WE UNDERSTAND THERE ARE SEVERAL FRENCH MINING

COMPANIES WITH INTERESTS IN U.S.

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Message Attributes

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